

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**STEPHANIE GILMORE,**

**Plaintiff,**

**v.**

**1:19-CV-888**

**SARATOGA CENTER FOR CARE, LLC, and  
DANIELLE ZASTAWNY,**

**Defendants.**

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**ORDER**

Plaintiff commenced this action pro se asserting employment discrimination claims. See ECF No. 1. On December 29, 2022, defendants moved pursuant to Federal Rule of Civil Procedure 12(b)(6) to dismiss Plaintiff's claims in this action. See ECF No. 56. Although the motion contained a certificate of service, see ECF No. 56-5, Plaintiff submitted a letter on September 1, 2023 indicating that she had not received any documents related to defendants' motion. See ECF No. 57.<sup>1</sup> On September 6, 2023, the Court entered a Text Order directing defendants to serve via overnight mail a copy of their motion upon plaintiff, and giving plaintiff until September 22, 2023 to file a response to the motion. See ECF No. 58. On September 21, 2023, plaintiff filed a letter indicating that at that time she had not received a copy of defendants' motion. See ECF No. 59.

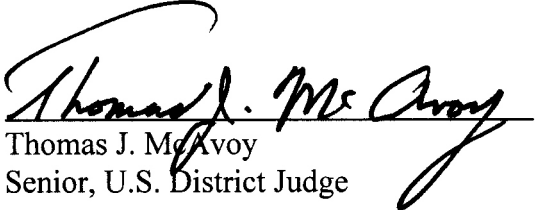
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<sup>1</sup> Plaintiff stated that she learned about defendants' motion when she called the Court Clerk's Office for a case update. Dkt. No. 57.

Because it appears that defendants failed to comply with the Court's September 6, 2023 Text Order, defendants' motion to dismiss, ECF No. 56, is **DENIED without prejudice to renewal as a Federal Rule of Civil Procedure 12(c) motion**. If defendants intend to renew their motion, they shall do so within two (2) weeks of the date of this Order and shall provide proof of service of the motion upon plaintiff.

**IT IS SO ORDERED.**

Dated: September 25, 2023

  
Thomas J. McAvoy  
Senior, U.S. District Judge